

**IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD**

(Special Original Jurisdiction)

WEDNESDAY, THE EIGHTH DAY OF JUNE
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MR JUSTICE S.ANANDA REDDY

WRIT PETITION NO : 11940 of 2005

Between:

C. Narsimha Reddy, S/o. Gunda Reddy,
Incharge-Branch Manager (U/S),
District Cooperative Central Bank Ltd.,
Madikonda, Warangal District.

..... PETITIONER

AND

- 1 The Warangal District Cooperative Central Bank Ltd., rep. by its General Manager, Subedari, Hanamkonda- 506001.
- 2 The General Manager, Warangal District Cooperative Central Bank Ltd., Subedari, Hanamkonda -506001.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to Issue a writ, order or direction particularly one in the nature of writ of Mandamus declaring the impugned show Cause Notice in Rc.No.B9/Estt/2000-01 dt. 24.05.2005 issued by the 2nd respondent as illegal, without jurisdiction and in violation of the judgment of Hon'ble High Court in AIR 1994 SC P. 1074 (MD, ECIL Vs. B. Karunakar) and 1998 (7) SCC P.84 (Punjab National Bank Case) and in violation of principles of natural justice and consequently set aside the same by further directing the respondents to conduct the disciplinary enquiry in accordance with law with all consequential reliefs and to pass.

Counsel for the Petitioner: MR.S.LAKSHMA REDDY

Counsel for the Respondents: MR.P.NAGESWAR SREE

The Court at the admission stage made the following ORDER:

This writ petition is filed by the petitioner aggrieved by the impugned Show Cause Notice dated 24.05.2005, under which, the second respondent had confirmed the findings of the Enquiry Officer and proposed to impose a punishment and the petitioner was asked to show cause as to why he should not be awarded with suitable punishment as per the Award governing the service conditions of the petitioner.

2. Learned counsel for the petitioner contends that the impugned proceedings issued by the second respondent are contrary to the judgment of the Supreme Court in **MANAGING DIRECTOR, ECIL, HYDERABAD v. B. KARUNAKAR** and **PUNJAB NATIONAL BANK AND OTHERS v. KUNJ BEHARI MISRA**. Further, the impugned proceedings would amount to violation of principles of natural justice as the second respondent had come to the conclusion that the findings arrived at by the Enquiry Officer were just and proper. He also contends that without giving any opportunity to the petitioner to make a representation with reference to the findings given by the Enquiry Officer the conclusions arrived at, amounts to violation of principles of natural justice in terms of the above referred two judgments. He specifically referred to paragraph No.7 in the case of B. Karunakar (1 supra) and contended that it is only the second right exercisable at the second stage, which was taken away by the 42nd Amendment of the Constitution of India. But, the right to provide an opportunity to the delinquent employee, which is part of the first stage of the enquiry, is in tact. Therefore, the second respondent, who is the disciplinary authority before coming to the conclusion as to the findings of the Enquiry Officer, ought to have given an opportunity to the petitioner to submit his explanation against the findings of the Enquiry Officer and the failure to give such an opportunity would amount to violation of principles of natural justice. Therefore, the impugned proceedings are liable to be set aside.

3. Mr. P. Nageswar Sree, counsel for the respondents fairly conceded the above

legal position.

4 . Under the above circumstances, the impugned proceedings of the second respondent dated 24.05.2005 are set aside to the extent of concurrence arrived at by him to the findings of the Enquiry Officer. However, under the impugned proceedings, the petitioner was asked to submit his explanation with reference to the punishment. But, the explanation sought for should be read as to the findings of the Enquiry Officer and accordingly, the petitioner is directed to submit his explanation with reference to the findings arrived at by the Enquiry Officer within a period of six weeks.

5. On receipt of such explanation, the second respondent is directed to consider the same with reference to the findings of the Enquiry Officer. After such consideration, the second respondent is at liberty to arrive at his own findings with reference to the charges and findings arrived at by the Enquiry Officer and thereafter, proceed in accordance with law.

6. The writ petition is accordingly allowed.

S.Ananda Reddy, J

Date: 08.06.2005

Note: Furnish CC in one week

B/o

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To

1 The General Manager, Warangal District Cooperative Central Bank Ltd.,
Subedari, Hanamkonda- 506001.

2 The General Manager, Warangal District Cooperative Central Bank
Ltd., Subedari, Hanamkonda -506001.

3 Two CD Copies